761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: November 4, 2011
FILE NO:

OFFICE CORRESPONDENCE

FROM: JOSEPH S. HARTSHORNE, COMMANDER
OFFICE OF THE UNDERSHERIFF

TO: JOSEPH B. NUNEZ, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2282364
Incident:	Hit Shooting
Incident Date:	February 11, 2011
Unit:	Twin Towers Correctional Facility
Suspect:	Armando Gonzales MH/25
Involved Employees:	Deputy Juan Rodriguez [redacted]
EFRC Date:	October 18, 2011

On October 18, 2011, the Executive Force Review Committee consisting of Commander Joseph Hartshorne, Commander Michael Rothans, and Commander Anthony La Berge met and reviewed the above case. The applicable policies that were evaluated were: MPP 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

FINDINGS:

The Committee determined that the force used by Deputy Rodriguez was reasonable, necessary, and in compliance with Department Policy. The Committee also determined that the tactics used by Deputy Rodriguez were sound and reasonable.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

September 20, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 11-0116
L.A.S.D. File # 011-01871-0562-055

Dear Captain Smith,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 11, 2011, non-fatal shooting of Armando Gonzalez by off-duty Los Angeles County Sheriff's Deputy Juan Rodriguez. We have concluded that Deputy Rodriguez acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting on February 11, 2011, at approximately 4:20 p.m. The District Attorney Response Team (Dart), comprised of Deputy District Attorney Fernando Guzman and District Attorney Senior Investigator [redacted] responded and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant John Fredendall, LASD Homicide Bureau. Deputy Rodriguez provided a voluntary statement to the investigators which was considered as part of this analysis.

FACTUAL ANALYSIS

On February 11, 2011, at approximately 2:35 p.m., off-duty LASD Deputy Juan Rodriguez was driving his personal vehicle in the number three lane of the eastbound 60 Freeway. A silver Ford Expedition (SUV) driven by Armando Gonzalez pulled up next to him in the number two lane. Gonzalez began lurching his vehicle forward, while making eye contact with Rodriguez.[1] Rodriguez' windows were rolled down as was Gonzalez' front passenger window.

[1] Rodriguez believes that the appearance of his Honda Civic prompts others to challenge him to race.

Gonzalez raised both of his hands in the air as if to say "What's up?" Rodriguez raised his hands in the air as if to say "Whatever." Gonzalez began to make more animated and aggressive hand gestures. Gonzalez continued looking at Rodriguez as he appeared to be searching for something in his center console area. Rodriguez believed that Gonzalez was searching for a weapon. Rodriguez "nonchalantly" moved his service weapon from below his driver's seat onto his lap. He was careful to avoid displaying the handgun to Gonzalez and kept it holstered.

Rodriguez moved ahead of Gonzalez on the freeway but kept watching him in his rearview mirror. Gonzalez appeared to be frantically searching for something in his vehicle as he continually looked at Rodriguez. Although traffic was beginning to slow, Rodriguez began changing lanes and accelerating in order to elude Gonzalez. Gonzalez began changing lanes and accelerating as if he was pursuing Rodriguez.

When Gonzalez was directly behind him, Rodriguez removed his service weapon from the holster. Traffic slowed to approximately 10-15 miles per hour (mph). Gonzalez changed lanes to the left and pulled up next to Rodriguez. Gonzalez made eye contact with Rodriguez and raised his right arm, pointing a black semiautomatic handgun directly at him. After hearing a loud boom or a gunshot, Rodriguez fired four or five rounds at Gonzalez.

Gonzalez stopped on the freeway as Rodriguez continued driving for approximately one half mile. He parked on the right shoulder of the freeway, exited his vehicle and ran to the right front fender, while looking west toward the SUV. He was attempting to call 9-1-1 with his cellular phone when he saw Gonzalez approaching. Gonzalez went from the number two lane, across three lanes of traffic, heading directly for Rodriguez' vehicle.

Rodriguez was holding his gun in both hands, aiming directly at Gonzalez' SUV. Gonzalez had both hands on his steering wheel and was still holding his gun in his right hand. As the SUV was about to strike the Honda, Rodriguez fired one round, shattering the rear window of the SUV. Gonzalez swerved around the Honda and drove past Rodriguez at a high rate of speed. Rodriguez called 9-1-1 and reported the shooting.

Witness Statements

[redacted] was driving behind the SUV and saw it drive toward the Honda. He saw Rodriguez fire one round shattering the SUV's rear window. The SUV continued east on the freeway exiting at the next off-ramp, Peck Road. [redacted] followed the SUV as it turned westbound on Durfee Avenue and northbound on Santa Anita Avenue, where it came to a stop. [redacted] watched as Gonzalez was detained by LASD Deputy Serrano.

Deputy Serrano saw that Gonzalez was bleeding from a laceration on his upper right cheek. Serrano called paramedics who arrived and treated Gonzalez. Gonzalez was transported to Los Angeles County Medical Center where Dr. Steven Sanko determined that Gonzalez had a gunshot wound to his face. The bullet lodged in his sinus cavity and caused a brain contusion.

Several witnesses heard a popping sound while driving on the freeway, but did not see the incident. [redacted] and [redacted] were together in [redacted] vehicle when they saw Rodriguez point his gun toward Gonzalez and fire several rounds. [redacted] heard four or five gunshots before she saw Rodriguez fire his weapon. They could not see what Gonzalez was doing.

Several witnesses saw Rodriguez fire at Gonzalez as he stood on the side of the road. Only [redacted] saw what Gonzalez was doing at the time of this shooting. Gonzalez was waiving his arms as if to say "Don't shoot." [redacted] heard three gunshots. He did not see Gonzalez well enough to determine his gender. It should be noted that [redacted] was traveling westbound on the other side of the freeway at the time of his observations.

Further Investigation

Investigators found two semiautomatic handguns hidden in a secret compartment near the center console of Gonzalez' SUV. A 9mm Ruger had nine live rounds in the 15 round capacity magazine. A .40 caliber Glock had one live round in the chamber and seven live rounds in the ten round capacity magazine. A spent casing which matched the rounds in the Glock was found on the front passenger floorboard. There was a bullet hole in the front passenger door of the SUV which was caused by a gun fired from inside the vehicle. DNA from a blood stain on the Glock matched Gonzalez.

On October 3, 2011, Gonzalez was convicted of assault with a semiautomatic firearm. He was sentenced to thirteen years in state prison. This conviction was based upon the facts of this case.

CONCLUSION

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-97.

The evidence examined in this investigation shows that off-duty Deputy Rodriguez was being pursued by Gonzalez on a crowded freeway. Gonzalez pointed a loaded firearm at Rodriguez and fired at least one round. This placed Rodriguez and the surrounding drivers in imminent danger of great bodily injury or death. Rodriguez responded with deadly force.

We find that Deputy Rodriguez acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

FERNANDO GUZMAN
Deputy District Attorney
(213)974-3888

c: Deputy Juan Rodriguez, #[redacted]

<u>Table of Contents</u>

IAB CASE NO. **IV2282364**

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 9/6/11	Bureau/Station/Facility: Twin Towers Correctional Facility	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 011-1871-0562-055	Date: 2/11/11 Time: 1435 Hours
City or Station: Temple Station	Nature of Incident: Deputy Rodriguez shot Suspect Gonzalez after the suspect shot at him.
Location: E/B 60 freeway at Santa Anita Avenue	

Location Type (*circle one or more*): Backyard, Beach, Business, **Freeway**, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: ____

Lighting (*circle only one*): Darkness, **Daylight**, Other, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance:

Incident Type (*circle one or more*): Accidental, **Armed Person**, Fleeing Suspect, Foot Pursuit, Gun Take Away, **Moving Vehicle**, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ____

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, **Other**, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, **Other**, Routine Patrol

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
10	1

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted] First Name [redacted] M.I. [redacted]
Street Address [redacted] City [redacted] Zip Code [redacted] Work Ph [redacted]

Last Name [redacted] First Name [redacted] M.I.
Street Address [redacted] City [redacted] Zip Code [redacted] Work Ph [redacted]

Last Name [redacted] First Name [redacted] M.I.
Street Address [redacted] City [redacted] Zip Code [redacted] Work Ph Home Ph [redacted]

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
				On Duty / Present during shooting / Witness to shooting / Involved in shooting
				On Duty / Present during shooting / Witness to shooting / Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.

PSTD Use Only
SH # 2282364

Officer Involved Shooting

URN: 011-1871-0562-055

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
2/11/11	1730	9/7/11	

Employee #	Last Name	First Name	M.I.
[redacted]	Allen	Victor	M.
[redacted]	Adler	Kelly	L.
[redacted]	Ault	Alicia	E.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	GL	40			NN	
E#1	S#1	FH	BR	9	Y	Y	GS	FA

SH-R-438A rev. 3/97

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 011-1871-0562-055

Involved Employee

E 1

Employee # [redacted]	Last Name: Rodriguez	First Name: Juan	M.I.: C.
Sex: M Race: H	Rank: Deputy	Unit Assignment: Twin Towers Correctional Facility	Work Assignment (Unit #, Module, etc.): N/A
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): Regular Overtime (Off Duty)	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 5 hours	Duty Time (hrs): [redacted]	Clothing (*circle only one*): (Plain Clothes no Vest) Plain Clothes w/ Vest Raid Jacket no Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest	Other Factors: At the time of the shooting, Deputy Rodriguez had not been to patrol.
Age: [redacted] Height: 508 Weight: 175			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name [redacted]	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket no Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket no Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 011-1871-0562-055

Suspect Information

S 1

Last Name: Gonzaez	First Name: Armando	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: H	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 25 D.O.B. 05/12/85	Height: 508 Weight: 215	FBI # [redacted]	CII # [redacted]
Booking # 2641243	Primary Charge: 664/187(a) PC	Secondary Charge: 245(b) PC	
Coroner Case? ☐	Coroner Case # ------	Intoxication/Drug Usage? ☐	Substance Used: -------
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: Ford		Model: Expedition	Year: 1998

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]